

S 14802

CONGRESSIONAL RECORD — SENATE

September 13, 1972

ceed \$20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

(f) Title III is further amended by adding thereto a new part B as follows:

"PART B. MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES"

"SEC. 317. To encourage the formation and growth of MESBIC's the Administration is authorized to purchase the securities of any such MESBIC, subject to the following conditions:

"(a) Shares of nonvoting stock (or other securities having similar characteristics), provided—

"(1) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(2) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and may require the preferred payment of the difference between dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

"(3) the purchase price shall be par value and, in any one sale, \$50,000 or more;

"(4) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a MESBIC having combined private paid-in capital and paid-in surplus ("capital"), of less than \$300,000 and licensed on or before October 13, 1971, the amount of capital invested after such date, nor (B) from any MESBIC having capital of \$300,000 or more but less than \$500,000, the amount of its capital in excess of \$300,000, nor (C) from any MESBIC having capital of \$500,000 or more, the amount of its capital.

"(b) Debentures subordinated to any other debts and obligations of a MESBIC (other than securities purchased under subsection (a) of this section), provided—

"(1) such debentures are issued for a term of not to exceed fifteen years;

"(2) the interest rate is determined pursuant to sections 303(b) and 318;

"(3) the amount of debentures purchased and outstanding at any one time from a MESBIC having capital of less than \$500,000 shall not exceed 200 per centum of its capital less the amount of preferred securities outstanding under subsection (a) of this section, nor, from a MESBIC having capital of \$500,000 or more, 300 per centum of its capital less the amount of such preferred securities.

"(c) Debentures purchased and outstanding pursuant to section 303(b) or this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subsection (b) (3) of this section.

"(d) The Administration may require, as a condition of the purchase of any securities from a MESBIC in excess of 200 per centum of its capital, that the MESBIC achieve and thereafter maintain a ratio of loans to venture capital (as defined in section 303) determined by the Administration to be reasonable and appropriate.

"SEC. 318. Notwithstanding section 303(b) the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a MESBIC shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such MESBIC for the period from October

13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No MESBIC which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to this section, and the rate of interest which would have been payable pursuant to section 303(b).

"SEC. 319. The provisions of part A shall apply in the administration of this part: *Provided, however,* That the provision of section 303(b) shall not be applicable to this part except as specifically provided in this part."

SEC. 2. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-18), is further amended by amending subsection (k) to read as follows:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) shall not apply to such companies so long as such class of senior security shall be privately held by the Small Business Administration and not intended to be publicly distributed."

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GAMBRELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to S. 3337 and that the bill be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPT. CLAIRE E. BROU

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 936, H.R. 6503.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows: A bill (H.R. 6503) for the relief of Capt. Claire E. Brou.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. FANNIN. Mr. President, I am happy to support passage of H.R. 6503, which I believe is a just resolution of the case of Capt. Claire E. Brou. This is an unusual case. Ordinarily the disability retirement system for military personnel provides a sufficient resolution for claims of this nature. It is my hope that in the future by and large most cases of injuries arising in the course of military service can be handled within the administrative structure without the necessity of recourse to legislative relief by private bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that certain pertinent material out of the report and on the basis of communications with the

Department of Defense be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFFIDAVIT

I, Lieutenant Colonel Jorge R. Gutierrez, SSAN 139-36-177, MC, Assistant Chief, Department Radiology, Tripler General Hospital, Hawaii, do hereby make this statement and affidavit regarding the physical disability suffered by Captain Claire E. Brou (USAF, Retired) following radiological tests performed on 17 April 1968 at Walter Reed Army Medical Center, Washington, D.C.

I entered medical school in Cuba in 1951 where such training involved a seven year program. I completed medical school at the University of Valencia in Spain in 1958. In September 1960 I completed the requirements for and received my Educational Council for Foreign Medical Graduates Certificate, and commenced my internship in January of 1961 at Our Lady of Lourdes Hospital, Camden, New Jersey. In January of 1962 I began my residency in radiology at the same hospital. I remained at Our Lady of Lourdes until entering on active duty with the Army at Fort Campbell, Kentucky on July 3, 1963. At Fort Campbell I was assigned to the radiological service, where I served until December of 1965. In December 1965 I was transferred to Fitzsimmons General Hospital at Denver, Colorado, where I completed my residency in radiology on August 31, 1967. I then came to Walter Reed as the Fellow in Angiography and Special Procedures, a radiological sub-specialty.

I first saw Captain Claire E. Brou as a patient during her admission to Walter Reed General Hospital during December of 1967. This was prior to her receiving any special radiological examination. During that admission the patient underwent a right inferior petrosal sinogram performed by Dr. Harrall, the staff physician in charge of such procedures. During this procedure I acted as first assistant to Dr. Harrall. The patient suffered no complication whatsoever following this procedure which confirmed a diagnosis of a venous varix posterior to the right eye. Some weeks later I performed an identical procedure on another patient, whose name I recall as McCarthy, for an identical condition posterior to the left eye. I performed this procedure without Dr. Harrall's presence, with the normal attendance of a resident and the appropriate technicians.

During April of 1968 the patient was readmitted specifically for the performance of a left inferior petrosal sinogram. This procedure was essential to definitive therapy and was requested by the Neurosurgical Department at Walter Reed. I saw the patient prior to the performance of these procedures for pre-operative consultation, explained to her that the procedure would be identical to the one performed on her in December 1967 and that it had been requested by Colonel Kempe, Chief of Neurosurgery.

The sinogram was performed by me on April 17, 1968. I was assisted by the Chief Radiological technician, Clarence Lee, a resident in Radiology, Dr. Frank Yerussli, by a corpsman and a second technician. Clarence Lee is a seasoned technician and has been with Special Procedures since the formation of that section in 1957. Dr. Yerussli was a second or third year radiology resident. At the time of the procedure the patient had received the normal pre-operative medication, 10 mg of morphine and 50 mg of phenergan.

To properly accomplish the radiological studies requested, I catheterized the left internal jugular vein and injected 1 cc of contrast medium (Ranagrafin-60), a test dose. After the appropriate lapse of time, I then advanced the catheter under fluoroscopic

September 13, 1972

CONGRESSIONAL RECORD -- SENATE

S 14801

Mr. JAVITS. Mr. President, will the Senator yield before the Senator from Georgia and the Senator from Texas reply?

Mr. BUCKLEY. I yield.

Mr. JAVITS. I am a cosponsor of the bill, and I join in everything the Senator said. I do not want to interrupt the flow of debate, but I would like to add to the Senator's request my own, as the cosponsor, for hearings and consideration.

Mr. TOWER. Mr. President, I have not discussed this with the chairman. Of course, the chairman and I both being up for reelection, any assurances we give are subject to the whims of the electorate. For my part, I can say that I will urge the chairman to give consideration to hearings early in the next session of Congress, and being a very broadminded and cooperative man, and one with whom I worked for years in a very profound way, I would assume that the chairman certainly would accept that proposal for hearings because I have never known him to foreclose anyone on an important matter who wanted hearings on a matter. I think I can give reasonable assurance. I have not spoken with the chairman and he is not here, but I would say the circumstances would be optimum for such hearings.

Mr. BUCKLEY. I thank the Senator for his encouragement.

Mr. GAMBRELL. Mr. President, I have not consulted on this subject with the chairman, but I understand the Senator's bill was introduced after the committee report was filed on this bill, so it was not possible to consider it in connection with this matter.

Mr. JAVITS. Mr. President, might we ask the Small Business Subcommittee if they would be able to develop, if they do not have it already, in connection with the hoped for hearings on Senator Buckley's bill, anything on the utilization of that section of the Small Business Act which allows, notwithstanding antitrust laws, small business to combine for purposes of research and development. As the Senator said, personally my instinct is that we have moved away from credit inaccessibility, and the main scourge of small business, to managerial inaccessibility, and the effort to allow them to utilize research and development was one of the main things we thought we had done in this area.

I think it would be helpful to Senator BUCKLEY's bill if we had some idea as to how that had gone—my recollection is that it had not gone too well—and what were the reasons it had not gone well, and whether we could help it with this bill or what we might include in the bill.

I would like to recall to the committee an experience, with which quite a few committee members are familiar, and especially the Senator from Alabama (Mr. SPARKMAN), and that is the organization of a company now known around the world as the Adela concept, of which I had the honor to be the author, which combines capital, very small leverage capital, with technical assistance, and makes a very admirable package. We know of its tremendous success in Latin America and now it is being tried in Africa and Asia.

Mr. TOWER. Mr. President, the Small Business Administration for the last 2 or 3 years, and it started in the administration of Hilary Sandoval, who was the Small Business Administrator who preceded Mr. Kleppe. They started then to develop the facility within the SBA to provide technical and managerial assistance, the idea being not just to give them the money and say, "Do the best you can with it," but to follow it up with technical and managerial assistance to the extent that they can use the money wisely and well.

I am not in a position to comment on the success of the agency's efforts at this time, but I know they have been trying to do that administratively and that it has been a principal objective with them. Certainly, I would say the Senator is absolutely correct in what he said about the inaccessibility of capital. That is not now the problem, because it is accessible, but technical and managerial assistance is not always available. However, under Mr. Kleppe as Chairman of the Small Business Administration, it is trying to correct this deficiency and trying to move toward managerial and technical assistance.

Mr. JAVITS. Perhaps my colleague from New York (Mr. BUCKLEY) and I can consult with Mr. Kleppe, with the anticipation of the hoped for hearings on this bill, and ascertain what is the present state of affairs on the bill, if the committee would not have any objection and then we could have the report for submission to the committee.

Mr. TOWER. I would say the committee would have no objection, because the committee has a vital interest in what happens to these funds once they are loaned. We do not want to finance failures. I am convinced of the Administrator's own desires in the matter, and I think he is a very conscientious man who wants to do the best job possible for making sure that when we fund these minority enterprises we also show them how, if necessary. Therefore, I think he would probably welcome such an inquiry, and I certainly see no reason why the committee would object to it.

Mr. BUCKLEY. I thank my distinguished colleague for commenting. I think the Adela concept is one which offers much opportunity to such enterprises. It has been successful in South America.

With the assurances I have received from the Senator from Texas and the Senator from Georgia, qualified though they had to be, I am satisfied that I can hope for early consideration of my bill by the committee when the new Congress convenes. I am also certain that the distinguished chairman and the distinguished minority member will be on hand to conduct those hearings.

Mr. TOWER. I thank my colleague for expressing confidence in the reelection of the chairman and myself. I want to say that should I return—and I have every hope and expectation of doing so—I will certainly press for early consideration of his bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (S. 3337) was read the third time, and passed, as follows:

S. 3337

An act to amend the Small Business Investment Act of 1958, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Enterprise Small Business Investment Act of 1972".

SEC. 2. The Small Business Investment Act of 1958, as amended, is further amended as follows:

(a) Section 103 is amended

(1) by striking "and" from paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(8) the term 'minority enterprise small business investment company', hereinafter called MESBIC, means a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

(b) Title III of the Small Business Investment Act of 1958, as amended, is further amended by designating sections 301 through 316 thereof as "PART A.—SMALL BUSINESS INVESTMENT COMPANIES".

(c) Section 301 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a MESBIC may be organized and chartered under State nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act."

(d) Section 302 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding subsection (b) (2) of this section, or any other provision of law, shares of stock or other equity or debt securities issued by a MESBIC shall be eligible for purchase by banks and other financial institutions, subject to the 5 per centum limitation of subsection (b) (1) of this section. MESBIC's shall not be deemed ineligible for any assistance under this Act because of such purchases."

(e) Section 303 of the Small Business Investment Act of 1958 is amended—

(1) by striking the figure "\$7,500,000" in the last sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the figure "\$15,000,000", and

(2) by amending paragraph (2) of subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company which has investments or legally binding commitments of 65 percent or more of its total funds available for investment in small business concerns invested or committed in venture capital, shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus ("Capital") of less than \$500,000, 200 per centum of its capital, and (B) from a company having capital of \$500,000 or more, 300 per centum of its capital. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph ex-

The assistant legislative clerk proceeded to state the amendment.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, as I plan to discuss it in the statement which I am about to make.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 3, between lines 3 and 4, add the following subsection: (e) Section 303 of the Small Business Investment Act of 1958 is amended—

(1) by striking the figure "\$7,500,000" in the last sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the figure "\$15,000,000", and

(2) by amending paragraph (2) of subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company which has investments or legally binding commitments of 65 percent or more of its total funds available for investment in small business concerns invested or committed in venture capital, shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus ('Capital') of less than \$500,000, 200 per centum of its Capital, and (B) from a company having Capital of \$500,000 or more, 300 per centum of its Capital. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed \$20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

On page 3, line 4, strike out "(e)" and insert "(f)".

Mr. GAMBRELL. Mr. President, this amendment is offered on behalf of the chairman of the committee, the Senator from Alabama (Mr. SPARKMAN).

The amendment is a simple one which will place regular small business investment companies on a more equal footing with minority enterprise SBIC's. Under S. 3337, MESBIC's would be entitled to draw down venture capital leverage when the MESBIC has private capital of \$500,000 or more. Under present law, all SBIC's must have at least \$1 million in private capital before they are able to achieve this additional leverage. The first part of my amendment would equalize the treatment for all segments of the SBIC industry.

The second feature of my amendment would increase the total leverage available for any one SBIC. Under S. 3337, MESBIC's could qualify for unlimited amounts of leverage. Present law limits any SBIC to a ceiling of \$10 million. My amendment would double this amount to \$20 million if an SBIC qualifies as a venture capital specialist, or \$15 million if it does not.

Mr. President, I believe these two amendments are fair and equitable and I believe they will give more incentive for SBIC's to invest ever greater numbers of dollars in our new and growing business enterprises.

Mr. TOWER. Mr. President, on behalf of the distinguished Senator from New Hampshire (Mr. McINTYRE), who is the

chairman of the subcommittee with whom I have discussed this matter, and on behalf of myself and the ranking minority member of the full committee, we are fully prepared to accept the amendment offered by the distinguished Senator from Georgia on behalf of the distinguished chairman of the committee (Mr. SPARKMAN), who is necessarily absent today.

I would urge the Senate to accept the amendment that has been offered by the Senator from Georgia.

Mr. JAVITS. Mr. President—

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I would like to ask a few questions about this matter. I am the ranking member of the Small Business Committee of the Senate and have served on the Banking and Currency Committee so I have some considerable interest in the situation which we are meeting today. Is it not a fact that the SBIC's, both in total number and individual capital are very much larger than the MESBIC's?

Mr. GAMBRELL. I think there is no doubt about that. The Senator is correct.

Mr. JAVITS. Mr. President, whereas we speak in terms of larger MESBIC's, I gather from our new minority counsel on the committee, Mr. Adams, in terms of a million dollars, we speak in terms of 10 times that for the SBIC. They have \$10 million. The Senator stated that himself.

Mr. GAMBRELL. The Senator is correct.

Mr. JAVITS. And on the average, the SBIC is very considerably larger than an MESBIC. Is that correct?

Mr. GAMBRELL. I think that is typically true. The Senator is correct.

Mr. JAVITS. Mr. President, I gather that a case has been made out for the MESBIC's to aid minority enterprise by increasing the leverage. I gather that the leverage should be increased and that a good case has been made for it.

Mr. President, I would like to ask the Senator a question so as to spread the information on the RECORD, because I believe the SBIC's ought to be encouraged. I think it is very desirable to do so. I was on the Committee on Banking, Housing and Urban Affairs, I believe, when it first started. I believe in the stimulus of small business enterprises. I do not wish to be construed as opposing the amendment. However, I think it is appropriate to have an explanation on the RECORD where there is a case for the MESBIC's, and apparently the case has been proved.

What about the case for the SBIC's and their adequate backing of the proposition which the Senate is being asked to approve?

Mr. GAMBRELL. I think the question the Senator is asking is one that I had not anticipated being called upon to answer, but I think the basic thrust of the legislation is to increase the amount of leverage available to SBIC, and thereby to increase the amount of leverage available to MESBIC's at the same time. The entire bill, aside from this amendment, is intended to encourage the extension of more and more credit into the MESBIC area. It may be that some will find the

thrust not sufficiently strong in this area. Certainly that would be worthy of further consideration, but the bill has the intention I have stated.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. GAMBRELL. I yield.

Mr. TOWER. If I may, I wish to make a little legislative history. The whole intent is to encourage minority enterprise. That is made adequately clear by the report and by what we say here. There is a desire not to statutorily give an advantage competitively to perhaps a non-minority enterprise small business; that may be equally meritorious. We do not want to statutorily discriminate.

Mr. JAVITS. Against the SBIC's?

Mr. TOWER. Yes; against the regular SBIC's.

Mr. JAVITS. I have great respect for the chairman of the committee and its ranking minority member. I do not oppose the amendment, but I hope that we can have and that there may be provided for the RECORD within the next few days a factual justification for the purpose, so that it may be a factor in conference. I understand this particular amendment will be in conference and there will be another opportunity for both Senators and Members of the House to give it consideration.

I think all of us would be helped if we had a detailed justification printed in the RECORD.

Mr. TOWER. I think I can give the Senator that assurance as far as the conference is concerned, and I can give assurance that by midweek there will be full justification in the RECORD.

Mr. BUCKLEY. Mr. President, I had contemplated introducing as an amendment to the bill a proposal I introduced 2 months ago which was designed to broaden our approach to provide minority enterprise with an opportunity to become financed. My basic approach would be to apply to the field of equity investment the kind of guarantee which the current legislation and other legislation applies to loans to such enterprises.

On consideration I decided not to introduce my concept as an amendment because I feel it should go through the normal procedure, the normal hearings, and have expertise applied by the committee, before it is offered to the Senate as a whole.

One of the defects as I see it, and at one time I was in the venture capital field, with respect to minority enterprise is to facilitate the borrowing of money, yet when an enterprise borrows money it incurs a cost which can throttle it. Also, bankers are not in the business of taking risks, yet a new enterprise is a risk-taking business. Finally, bankers are not in the position of offering a galaxy of advice of the sort minority enterprises want most. People in equity financing are able to provide that kind of aid.

I would like to ask the Senator from Texas, as the ranking minority member, and also the distinguished Senator from Georgia, who is acting on behalf of the chairman, if I could get some kind of encouragement that hearings could be held at an early date in the next session of Congress.

received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to this section, and the rate of interest which would have been payable pursuant to section 303(b).

Sec. 319. The provisions of part A shall apply in the administration of this part: *Provided, however,* That the provisions of section 303(b) shall not be applicable to this part except as specifically provided in this part.

Sec. 320. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 30a-18), is further amended by amending subsection (k) to read as follows:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) shall not apply to such companies so long as such class of senior security shall be privately held by the Small Business Administration and not intended to be publicly distributed."

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

Mr. TOWER. Mr. President, on August 1, the Committee on Banking, Housing and Urban Affairs reported without objection the administration's bill, S. 3337, which I was pleased to sponsor, to enlarge and improve the assistance program of the Small Business Administration to minority enterprise formation and operation. The need has long been recognized in our country for the formation of capital in disadvantaged minority communities, if the harsh cycle of poverty is to be broken and its victims are to have a chance to work their ways to decent standards of living and to the dignity that accompanies self-reliance and self-support. The Minority Enterprise Small Business Investment Act is one of the means recommended by the President to the Congress to facilitate capital formation in the minority community generally, and I think that this self-help approach to curing poverty and unemployment in the minority community is very deserving of support by the Congress.

The bill essentially provides statutorily that minority enterprise small business investment companies—MESBIC's—may be organized to receive SBA assistance and to channel financial and management assistance to minority enterprises. The bill:

First, specifies that MESBIC's may be organized under either business or nonprofit corporation statutes of the several States, in order to permit the organizers of the MESBIC the option of tapping the large assistance potential of charitable organizations, churches, foundations, and the like;

Second, authorizes SBA to acquire preferred stock in a MESBIC, within certain limits, in order to ease the debt and interest burden of the MESBIC so that it can raise more private capital;

Third, reduces the level of private capital required to qualify for third-dollar leverage from SBA, from \$1 million to \$500,000, so that more MESBIC's can be formed which can utilize favorable leverage provisions available to SBIC's;

Fourth, provides an interest subsidy for borrowed government funds during the first 5 years of the loan; and

Fifth, permits federally regulated banks to own MESBIC's wholly or in part, within specified limits, in order to bring in the direct support of the banking community to this vital program.

Mr. President, this bill offers the minority individual who is trying to get into business an opportunity to get some of the capital and management assistance that he needs to get a successful operation going. This legislation does not propose to guarantee anybody a minimum income, or to give anybody something for nothing. This bill provides for seed money and assistance to be channeled into the potentially profitable minority business enterprise in order to get the business going. The ultimate goal is the development of a large number of self-sustaining, self-supporting minority business firms, which are owned by the minority communities, run by them, and which return the benefits of profits, jobs, and income to the presently disadvantaged minority communities. The principal ingredient of this whole capital formation process will be the particular individuals in the minority community with the ambition and the talent to run their own businesses—in a word, entrepreneurs. We merely seek here to provide a vehicle for the direction of supportive financial and management assistance to get these entrepreneurs into successful operation.

The ultimate beneficiaries of the process of successful capital formation in minority communities will be not only members of those communities themselves, but also all taxpayers and citizens of this country, who are throwing a great deal of good tax money down the seemingly insatiable sink-hole of welfare and other nonproduction oriented Federal programs. The MESBIC program is designed to help build a self-supporting capital structure under the minority community, which is the only long-term solution for the achievement of permanently decent living standards for this community, and will help provide them the dignity of self-support that everyone should have.

The SBA has been operating an administrative program for MESBIC's for some time now, under the auspices of the existing Small Business Investment Act. I ask unanimous consent that a copy of the testimony before our committee of Mr. Walter W. Durham, president of the MESBIC Financial Corp. of Dallas, be printed in the RECORD at this point, so that the RECORD will show an example of the progress of the program to date, even without the expanded as-

sistance of the present legislation. It seems clear that with the expanded assistance of this legislation, we will see a substantial increase in the number of minority businesses created and in the successfulness of these businesses.

I therefore urge the passage of this legislation.

Mr. President, I urge the Senate to give its overwhelming support to this measure that is designed to get the blacks, the Mexican Americans, and other disadvantaged minority groups in this country into the mainstream of the free enterprise system.

I think the record of this administration is good with respect to this matter. Administratively they have been doing what we in the Congress do legislatively. I think that this should be a permanent program and should be approved by the Congress of the United States. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GAMBRELL. Mr. President, the bill presently before the Senate, the Minority Enterprise Small Business Investment Act of 1972, was reported out of committee unanimously.

As the Senator from Texas has announced, the administration has given this legislation its support. In the absence of the chairman of the committee and the other members on the Democratic side, I have been asked to handle this matter.

This bill creates a new program by establishing the creation of minority small business investment companies, MESBIC's and authorizes the Small Business Administration to provide financial assistance for the purpose of providing equity capital and long-term loan funds to small business concerns owned by disadvantaged persons.

The bill provides that MESBIC's can be formed either under the business or nonprofit corporation statutes of the various States.

This bill, S. 3337: First, authorizes the Small Business Administration to purchase preferred stock within certain limits; second, reduces private capital requirements for MESBIC's from \$1 million to \$500,000 to qualify for third-dollar Government leverage; third, provides interest subsidies for the first 5 years of a MESBIC loan; and fourth, permits federally regulated banks to own MESBIC's within specified limits.

Mr. President, the purpose of this legislation is to provide minority business with a source of investment capital.

Economic opportunity must be created to assure minority groups and the disadvantaged a greater chance to participate directly in our free enterprise system, and this is the intent of this legislation.

Mr. President, at this time I send to the desk an amendment to S. 3337 which would augment and improve the provisions of the bill.

The PRESIDING OFFICER. The Clerk will report the amendment.

September 12, 1972

CONGRESSIONAL RECORD — SENATE

Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I further announce that the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

The result was announced—yeas 65, nays 17, as follows:

[No. 423 Leg.]

YEAS—65

Aiken	Fulbright	Muskie
Anderson	Gambrell	Packwood
Bayh	Gravel	Pastore
Beall	Gurney	Pearson
Bellmon	Hansen	Pell
Bennett	Hart	Percy
Bentsen	Hartke	Randolph
Bible	Hatfield	Ribicoff
Brook	Hughes	Schweiker
Brooke	Humphrey	Scott
Buckley	Inouye	Smith
Burdick	Jackson	Stafford
Byrd, Robert C.	Javits	Stennis
Cook	Jordan, N.C.	Stevens
Cotton	Long	Stevenson
Cranston	Magnuson	Taft
Dole	Mansfield	Thurmond
Dominick	McClellan	Tower
Eagleton	Metcalf	Weicker
Eastland	Mondale	Williams
Ervin	Montoya	Young
Fannin	Moss	

NAYS—17

Allen	Cooper	Nelson
Boggs	Curtis	Proxmire
Byrd	Goldwater	Roth
Harry F., Jr.	Hruska	Spong
Cannon	Jordan, Idaho	Symington
Church	Miller	Talmadge

NOT VOTING—18

Allott	Griffin	McGovern
Baker	Harris	McIntyre
Case	Hollings	Mundt
Chiles	Kennedy	Saxbe
Edwards	Mathias	Sparkman
Fong	McGee	Tunney

So the bill (S. 3917) as amended, was passed, as follows:

S. 3917

An Act to authorize the construction of the completion of the New Senate Office Building on the east half of square 725 in the District of Columbia, to authorize the acquisition of certain real property in square 724 in the District of Columbia, to authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities to be constructed on square 724 and an architectural design competition to be conducted in connection therewith, and to authorize the acquisition of all publicly or privately owned property contained in square 764 in the District of Columbia as an addition to the United States Capitol Grounds, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "United States Senate Office Building, Land Acquisition, and Parking Facilities Planning Act of 1972".

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

SEC. 2. (a) The Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to provide for the construction and equipment of an extension to the New Senate Office Building in accordance with plans approved by such Commission and by the Senate Committee on Public Works, on the east half of square 725 including the public alley separating the east and west halves of such square, but excluding lot 885 in such square, containing office rooms and such other rooms and accommodations as may be approved by the Senate Office Building Commission and by the Senate Committee on Public Works, including structural and other changes in the existing New Senate Office Building necessitated by such construction, together with approaches, connections with the Capitol Power Plant and public utilities, and architectural landscape treatment of the grounds.

(b) Upon completion of the project, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of the Act of June 8, 1942 (40 U.S.C. 174 (c) and (d)), and the Act of July 31, 1946 (40 U.S.C. 193a-193m, 212a and 212b) in the same manner and to the same extent as the present Senate Office Buildings and the grounds and sidewalks surrounding the same.

(c) During each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take such steps as are necessary to insure its economical construction.

ACQUISITION OF PROPERTY IN SQUARE 724

SEC. 3. (a) In addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85-429, approved May 29, 1958 (72 Stat. 148-149), Public Law 91-382, approved August 18, 1970 (84 Stat. 819), and Public Law 92-184, approved December 15, 1971 (85 Stat. 637), the Architect of the Capitol, under the direction of the Senate Office Building Commission, is hereby authorized to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, as a site for parking facilities for the United States Senate, all publicly or privately owned real property contained in lots 79, 80, 86, 94, 805, 806, 833, 838, 839, 840, and 844 in square 724 in the District of Columbia, and all alleys or parts of alleys and streets contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That for the purposes of this Act, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, upon acquisition of any real property under this Act, the jurisdiction of the Capitol Police shall extend over such property, and any property acquired under this Act shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a-193m, 212a, and 212b of title 40, United States Code.

(b) Any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351-1368).

(c) Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding square 724 shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or

streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan Numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol with the approval of such Commission.

(d) Upon acquisition of any real property pursuant to this Act, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith.

(e) Nothing herein shall be construed to prohibit the continued use of areas in square 724, acquired under authority of the Acts of May 29, 1958, August 18, 1970, and December 15, 1971, cited in subsection (a) of this section, for the parking of automobiles, until such times as such areas may be required for construction purposes.

PLANS FOR GARAGE AND RELATED FACILITIES

SEC. 4. (a) The Architect of the Capitol is authorized to initiate and conduct a study, after consultation with the appropriate Federal agencies and individuals experienced in the design of vehicle parking structures, to explore design and cost alternatives for construction, on square 724, of a parking garage with limited commercial facilities, and report his preliminary findings and recommendations to the Senate Committee on Public Works.

(b) The Architect of the Capitol, concurrently with the study authorized in subsection (a), is authorized to establish, for the purpose of development of a basic concept therefor, an architectural design competition, in order to encourage the preparation of an imaginative design for the garage structure, including limited commercial facilities and landscaping and to assure a pleasant transition to and maximum coordination with the surrounding residential and commercial community in that area of Northeast Washington within sight of or adjoining the Capitol Grounds. Such design concept may consider and include existing and future land use and structures in said surrounding community, and shall consider any existing model cities or other governmental planning for such Northeast area, including that of the National Capital Planning Commission. Guidelines and criteria specifically defining the limits, scope, and all aspects of the competition shall be developed and promulgated by the Architect of the Capitol, with the approval of the Senate Office Building Commission, and an award for the best design or designs shall be determined by a committee jointly designated for this purpose by the Architect of the Capitol and the Senate Office Building Commission, in such amount as they may deem to be appropriate.

ACQUISITION OF SQUARE 764

SEC. 5. (a) The Architect of the Capitol is authorized to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act.

(b) Any proceeding for condemnation brought under this Act shall be conducted

in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351-1368).

(c) For the purposes of this Act, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square. Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curbs surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curbs of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan Numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol.

(d) Upon acquisition of such real property pursuant to this section, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to approval of the Senate Office Building Commission and the House Office Building Commission.

(e) The jurisdiction of the Capitol Police shall extend over any real property acquired under this section and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a-193m, 212a, and 212b of title 40, United States Code.

OBLIGATIONAL AND EXPENDITURE AUTHORITY

Sec. 6. The Architect of the Capitol, under the direction of the Senate Office Building Commission, is hereby authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, and expenditures authorized by Public Law 91-646 applicable to the Architect of the Capitol, as may be necessary to carry out the provisions of this Act.

APPROPRIATIONS

Sec. 7. There are hereby authorized to be appropriated \$53,500,000 to carry out the provisions of this Act, and any sums so appropriated shall remain available until expended.

Mr. GRAVEL. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF LIFE OF THE COMMISSION ON CIVIL RIGHTS

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12652.

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ERVIN. I move that the Senate insist upon its amendment and agree to the

request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. EASTLAND, Mr. McCLELLAN, Mr. ERVIN, Mr. HART, Mr. HRUSKA, Mr. FONG, and Mr. SCOTT conferees on the part of the Senate.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 956, S. 3337, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. BUCKLEY). The bill will be stated by title. The assistant legislative clerk read as follows:

S. 3337, to amend the Small Business Investment Act of 1958, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment on page 1, line 4, after the word "of", strike out "1971" and insert "1972"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Enterprise Small Business Investment Act of 1972".

Sec. 2. The Small Business Investment Act of 1958, as amended, is further amended as follows:

- (a) Section 103 is amended
 - (1) by striking "and" from paragraph (6);
 - (2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and
 - (3) by adding the following new paragraph:

"(8) the term 'minority enterprise small business investment company', hereinafter called MESBIC, means a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

(b) Title III of the Small Business Investment Act of 1958, as amended, is further amended by designating sections 301 through 316 thereof as "PART A—SMALL BUSINESS INVESTMENT COMPANIES".

(c) Section 301 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a MESBIC may be organized and chartered under State nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act."

(d) Section 302 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding subsection (b) (2) of this section, or any other provision of law, shares of stock or other equity or debt securities issued by a MESBIC shall be eligible for purchase by banks and other financial

institutions, subject to the 5 per centum limitation of subsection (b) (1) of this section. MESBIC's shall not be deemed ineligible for any assistance under this Act because of such purchases."

(e) Title III is further amended by adding thereto a new part B as follows:

"PART B. MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES"

Sec. 317. To encourage the formation and growth of MESBIC's the Administration is authorized to purchase the securities of any such MESBIC, subject to the following conditions:

(a) Shares of nonvoting stock (or other securities having similar characteristics), provided—

(1) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

(2) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and may require the preferred payment of the difference between dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

(3) the purchase price shall be par value and, in any one sale, \$50,000 or more;

(4) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a MESBIC having combined private paid-in capital and paid-in surplus ("capital"), of less than \$300,000 and licensed on or before October 13, 1971, the amount of capital invested after such date, nor (B) from any MESBIC having capital of \$300,000 or more but less than \$500,000, the amount of its capital in excess of \$300,000, nor (C) from any MESBIC having capital of \$500,000 or more, the amount of its capital.

(b) Debentures subordinated to any other debts and obligations of a MESBIC (other than securities purchased under subsection (a) of this section), provided—

(1) such debentures are issued for a term of not to exceed fifteen years;

(2) the interest rate is determined pursuant to sections 303(b) and 318;

(3) the amount of debentures purchased and outstanding at any one time from a MESBIC having capital of less than \$500,000 shall not exceed 200 per centum of its capital less the amount of preferred securities outstanding under subsection (a) of this section, nor, from a MESBIC having capital of \$500,000 or more, 300 per centum of its capital less the amount of such preferred securities.

(c) Debentures purchased and outstanding pursuant to section 303(b) or this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subsection (b) (3) of this section.

(d) The Administration may require, as a condition of the purchase of any securities from a MESBIC in excess of 200 per centum of its capital, that the MESBIC achieve and thereafter maintain a ratio of loans to venture capital (as defined in section 303) determined by the Administration to be reasonable and appropriate.

Sec. 318. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a MESBIC shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such MESBIC for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No MESBIC which has re-